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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,083	07/13/2001	Timothy I. O'Brien	D6223CIP/C/D	4623
75	90 03/19/2003			
Dr. Benjamin Adler			EXAMINER	
Adler & Associates 8011 Candle Lane			HUFF, SHEELA JITENDRA	
Houston, TX 77071			ART UNIT	PAPER NUMBER
			1642	
			DATE MAILED: 03/19/2003	10

Please find below and/or attached an Office communication concerning this application or proceeding.

Application N .						
Examin r   Sheela J Huff   1642	•	Applicati n N .	Applicant(s)			
Sheels J Huff   1642	Office Action Summany					
The MAILING DATE of this c mmunication appears in the cover sheet with the corresp indence address — Period of reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 3 CFR 1:136(3). In ore event, however, may a reply be timely filed Extensions of time may be available under the provisions of 3 CFR 1:136(3). In ore event, however, may a reply be timely filed If the period for reply specified above is less than thery (50) days, as reply within the stationy reprised will apply and will apply 61 (6) MONTH's form than mailing date of this communication. Finally the may within the value of the mailing date of the communication of the communication of the communication of the communication. Finally the period for reply specified above is less than thery (50) days, as reply than the station of the communication of the communication. Finally the period for reply specified above is less than thery (50) days and the period of the communication. Finally the period for reply specified and the period of the communication of the communication. Finally the period of the communication of the period of the peri	Office Action Summary					
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THE MAILING DATE OF THIS COMMUNICATION.  Extensions of tem may be available under the provisions of 3 CFR 1.13(g). In no event, however, may a reply be limely fled after SX (6) MONTHS from the making date of this communication. The provision of the provision of the communication of the provision of the provisio	• •	ears in the cover sheet with the c	orresp iluence address			
2a)  This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 5-10 and 16-39 is/are pending in the application.  4a) Of the above claim(s) 5-10.16-21 and 32-39 is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) 22-31 is/are rejected.  7) Claim(s) is/are abjected to.  8) Claim(s) 22-31 is/are rejected.  7) Claim(s) is/are objected to.  8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is/are: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s) Interview Summary (PTO-413) Paper No(s).  1 Notice of References Cited (PTO-892)  Notice of Informal Patent Application (PTO-152)	<ul> <li>THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any eamed patent term adjustment. See 37 CFR 1.704(b).</li> </ul>					
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Application/Control Number: 09/905,083

Art Unit: 1642

DETAILED ACTION

## Response to Amendment

The amendment filed on 2/19/03 has been considered. Applicant's arguments are deemed not to be persuasive.

Claims 5-10 and 16-39 are pending.

Claims 5-10, 16-21 and 32-39 are withdrawn from consideration as being drawn to a non-elected invention.

Claims 22-31 are currently under consideration.

## Response to Arguments

Claims 22-31 remain rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The reasons for this rejection are of record in paper no. 8, mailed 11/20/02.

Applicant argues that the Declaration submitted by Dr. O'Brien enables the instant invention. The instant invention is directed to a vaccine and the O'Brien Declaration only shows that the peptides can induce an immune response. The Declaration does show that the peptides have any protective effects.

Art Unit: 1642

## Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela J Huff whose telephone number is 703-305-7866. The examiner can normally be reached on T,Th 6am-12pm and alternate Mondays 6am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa can be reached on 703-308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Application/Control Number: 09/905,083

Art Unit: 1642

Page 4

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

Shellac J. Huff Sheela J Huff Primary Examiner Art Unit 1642

sjh March 18, 2003